ORIGINAL

LAW DOCKET FILE COPY ORIGINAL

KOTEEN & NAFTALIN, L.L.P.

1150 CONNECTICUT AVENUE
WASHINGTON, D.C. 20036

BERNARD KOTEEN*
ALAN Y. NAFTALIN
ARTHUR B. GOODKIND
GEORGE Y. WHEELER
MARGOT SMILEY HUMPHREY
PETER M. CONNOLLY
CHARLES R. NAFTALIN
GREGORY C. STAPLE
R. EDWARD PRICE

* SENIOR COUNSEL

TELEPHONE
(202) 467-5700
TELECOPY
(202) 467-5915

RECEIVED

OCT 30 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 30, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Hand Delivered

Re: Comments of TDS Telecommunications Corporation
CC Docket No. 96-128

Dear Mr. Caton:

Transmitted herewith, on behalf of TDS Telecommunications Corporation and pursuant to the FCC's October 20, 1997 Public Notice, DA 97-2214, are an original and four copies of its comments in the above-referenced docket.

In the event there are questions concerning this matter, please contact me.

Very truly yours,

R. Edward Price

R. Edward Price

Enclosure

No. of Copies rec'd 0+4
List ABCDE

DOCKET FILE COPY ORIGINAL

RECEIVED

OCT 30 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the	)	CC Docket No. 96-128
Pay Telephone Reclassification	)	
and Compensation Provisions of the	)	
Telecommunications Act of 1996	)	

COMMENTS OF TDS TELECOMMUNICATIONS CORPORATION

TDS Telecommunications Corporation (TDS), by its attorneys and pursuant to the Commission's Order of October 7, 1997, and Public Notice of October 20, 1997, in the above-captioned proceeding,[1] hereby submits these comments supporting the petitions filed by parties seeking a waiver of the Commission's payphone coding digits requirements and discussing, preliminarily, the Opposition of AT&T Corp. (AT&T) to the waiver petitions of TDS (on behalf of its local exchange carrier (LEC) subsidiaries) and the United States Telephone Association (USTA).

I. Introduction

In its petition for waiver, TDS sought an extension of time in which to comply with the requirement in the instant docket for LECs to transmit coding digits to interexchange carriers (IXCs), along with automatic numbering information (ANI), to enable the IXCs to meet their

---

[1] Order, DA 97-2162, CC Docket No. 96-128 (CCB, released Oct. 7, 1997); Public Notice, "Pleading Cycle Established for Petitions to Waive Payphone Coding Digits Requirements," DA 97-2214 (released Oct. 20, 1997). The Order and Public Notice were issued, inter alia, in response to a Petition for Waiver that TDS filed on behalf of its local exchange carrier subsidiaries on October 1, 1997, in this docket.

statutory obligation to provide fair compensation to payphone providers for long distance calls on their payphones. As stated in its petition, TDS has determined that the required call coding could be implemented fastest and at the lowest cost through the use of the Line Information Data Base (LIDB) method.[2] TDS also stated that such a solution could not be implemented until the necessary contracts with LIDB service providers were executed and tests were conducted.[3] TDS estimated that it could begin providing LIDB-based call coding by July 1, 1998,[4] and has sought the appropriate waiver.

Contrary to the baseless assertions of AT&T, discussed further below, LIDB is an acceptable alternative to Flex ANI under the Order on Reconsideration and prior orders in this and other dockets. The use of LIDB for call data transmission by LECs is clearly contemplated in these orders, along with a variety of call tracking approaches by IXCs. The imposition of a new Flex ANI requirement at this late date would not only slow implementation of the FCC's payphone call coding requirements, it would also unreasonably burden LECs with paying for a system from which they do not necessarily benefit and for which the FCC has provided no means of cost recovery. For the reasons discussed herein, the Commission should clarify that LECs may provide payphone call coding through either LIDB- or Flex ANI-based solutions.[5] Additionally, the Commission should grant TDS's waiver

---

2 See TDS Petition for Waiver, Oct. 1, 1997, at 2.

3 See id. at 2-3.

4 See id. at 3.

5 If the FCC decides to require all LECs to provide Flex ANI and to provide for appropriate cost recovery, TDS estimates that it will take approximately two years to (continued...)

request on behalf of its LEC subsidiaries and extend the deadline for provision of call coding digits to July 1, 1998.

II. LIDB Is Permitted In The Commission's Orders As A Reasonable Alternative to Flex ANI

In its Opposition, AT&T asserts that LIDB-based solutions are not a permissible method of transmitting the required digits under paragraph 64 of the Order on Reconsideration.[6] Because paragraph 64 speaks of coding digits that "specifically" identify a payphone, according to AT&T, a Flex ANI-based approach is "required." This is erroneous. The language in paragraph 64 is far from clear, and carriers such as TDS have reasonably read it, within the context of prior Commission orders in this proceeding, to allow either a LIDB or Flex ANI approach.

Paragraph 64 states that "to be eligible for . . . compensation, payphones will be required to transmit specific payphone coding digits as part of their ANI which will assist in identifying them to compensation payors."[7] Taken literally, this would be impossible because payphones themselves do not transmit ANI; it is the LEC's central office that provides this information. Since the statutory obligation that the Commission was implementing in its code-passing discussion involves the payment to payphone providers of compensation for

---

[5](...continued) implement the system on its switches, and TDS would be required to seek a waiver accordingly.

[6] AT&T Opposition, Oct. 7, 1997, at 4; see Order on Reconsideration, 11 FCC Rcd 21233, 21265-66 (¶ 64) (1996).

[7] Order on Reconsideration, 11 FCC Rcd at 21265-66 (¶ 64) (citing Report and Order, 11 FCC Rcd 20541, 20591 (¶ 98) (1996)).

originating calls for IXCs, it is reasonable to assume from the unelaborated reference to LEC codes that the Commission meant that LECs should provide available codes that would enable IXCs to meet their compensation obligations. If the Commission had intended that LECs implement a specific approach to coding information involving upgrades to their networks for many LECs at added cost, such as Flex ANI, it would surely have said so, rather than state in general terms the type of information which LECs should make available to IXCs for call compensation.

Indeed, paragraph 64 in the Order on Reconsideration refers back to paragraph 98 of the Report and Order,[8] which says the following:

> Currently under our rules, LECs are required to tariff federally originating line screening ('OLS') services that provide a discrete code to identify payphones that are maintained by non-LEC providers. We conclude that LECs should be required to provide similar coding digits for their own payphones.[9]

The requirement to which the Commission refers here was discussed in the Third Report and Order in CC Docket No. 91-35. There the Commission stated explicitly that "we find that the services currently offered by the LECs through LIDB are generally adequate to satisfy our requirements for a BNS [billed number screening] system."[10]

---

8 See supra note 7.

9 Report and Order, 11 FCC Rcd at 20591 (¶ 98) (citing Third Report and Order, 11 FCC Rcd 17021, 17040-41 (¶ 34) (1996)).

10 Third Report and Order, 11 FCC Rcd at 17041 (¶ 36); see also id. at 17032 (¶ 19), 17038-39 (¶ 31) (stating that OLS information can be provided either through ANI II, Flex ANI, or LIDB).

III. A Flex ANI Requirement Would Impose Unreasonable Costs On Small LECs For Which No Cost Recovery Has Been Provided

Contrary to AT&T's unilateral and self-serving reinterpretation of the language in paragraph 64, given the Commission's prior approval of LIDB in the context of OLS and its references to both the Report and Order in the instant docket and the Third Report and Order in CC Docket No. 91-35, the Commission clearly would not have sought to burden LECs with a new Flex ANI requirement without making an explicit statement to that effect. In addition, the Commission would need to have determined how and from which carrier LECs will recover their costs for its implementation and to evaluate whether the cost of providing information under the new requirement to allow compensation of payphone providers by IXCs would exceed the potential benefits. It is beyond question that the costs should be recovered from either IXCs or payphone providers and not from the LECs. The Commission has not indicated, let alone justified, imposing the costs of payphone compensation on LECs.

Nor should the Commission so burden LECs, which would amount to requiring a new implicit subsidy by LECs to either payphone or IXC providers or both, contrary to section 254(e) of the 1996 Act. As USTA points out, LECs have varying technological and financial capabilities with regard to the coding of payphone calls.[11] It would be unfair to burden them with making technological changes solely to accommodate AT&T when alternatives such as LIDB exist and are used in other contexts.[12] AT&T has not denied that it can use LIDB information and existing records to identify paypone calls adequately to compensate their

---

[11] See USTA Petition for Waiver, Sept. 30, 1997, at 3.

[12] See id.

providers. AT&T's superficial reading of paragraph 64 cannot justify the narrow result for which it now seeks support.

IV. **Conclusion**

The Order on Reconsideration and the Report and Order, as written, do not explicitly require LECs to use Flex ANI to comply with the Commission's payphone call coding requirements and provide no mechanism for LECs to recover the costs of installing this costly solution. Based on these factors, and the Commission's approval of the use of LIDB in the context of call screening, TDS subsidiaries have begun the process of contracting with LIDB providers to provide IXCs with payphone coding information.[13] This is a reasonable approach under the Commission's orders.

AT&T has relied on a strained and self-serving reading of the payphone coding requirements and apparently seeks eleventh-hour imposition of its position on LECs and their customers. Flex ANI is not — and should not be — the required method by which LECs are to provide call coding. It is costly, time-consuming to install, and would shift significant expenses to LECs for which no cost-recovery mechanism has been provided.

---

[13] See TDS Petition for Waiver, Oct. 1, 1997, at 2-3.

For the foregoing reasons, TDS supports a grant of its waiver request in order to provide call coding through a LIDB-based solution beginning July 1, 1998.

Respectfully submitted,

TDS TELECOMMUNICATIONS CORPORATION

By: R. Edward Price

Margot Smiley Humphrey
R. Edward Price

KOTEEN & NAFTALIN, L.L.P.
1150 Connecticut Avenue, N.W.
Suite 1000
Washington, D.C. 20036
(202) 467-5700

Its Attorneys

October 30, 1997

CERTIFICATE OF SERVICE

I, Sheila Hickman, do hereby certify that copies of the foregoing "COMMENTS OF TDS TELECOMMUNICATIONS CORPORATION" were served this 30th day of October, 1997, by U.S. Mail, first class, postage pre-paid, or by hand delivery (*), on the following parties:

*John B. Muleta, Chief
Enforcement Division
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W., Room 6008
Washington, D.C. 20554

*Rose M. Crellin, Esq.
Enforcement Division
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W., Room 6310-A
Washington, D.C. 20554

*Greg Lipscomb, Esq.
Enforcement Division
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W., Room 6336-A
Washington, D.C. 20554

*International Transcription Services, Inc.
1231 20th Street, N.W.
Washington, D.C. 20036

Mark C. Rosenblum, Esq.
Peter H. Jacoby, Esq.
Richard H. Rubin, Esq.
AT&T Corp.
295 North Maple Avenue
Room 3252I3
Basking Ridge, New Jersey 07920

Mary McDermott, Esq.
Linda Kent, Esq.
Keith Townsend, Esq.
Hance Haney, Esq.
United States Telephone Association
1401 H Street, N.W., Suite 600
Washington, D.C. 20005

Michael K. Kellogg, Esq.
Kellogg, Huber, Hansen, Todd
& Evans, P.L.L.C.
1301 K Street, N.W., Suite 1000 West
Washington, D.C. 20005-3317

Sheila Hickman

Sheila Hickman